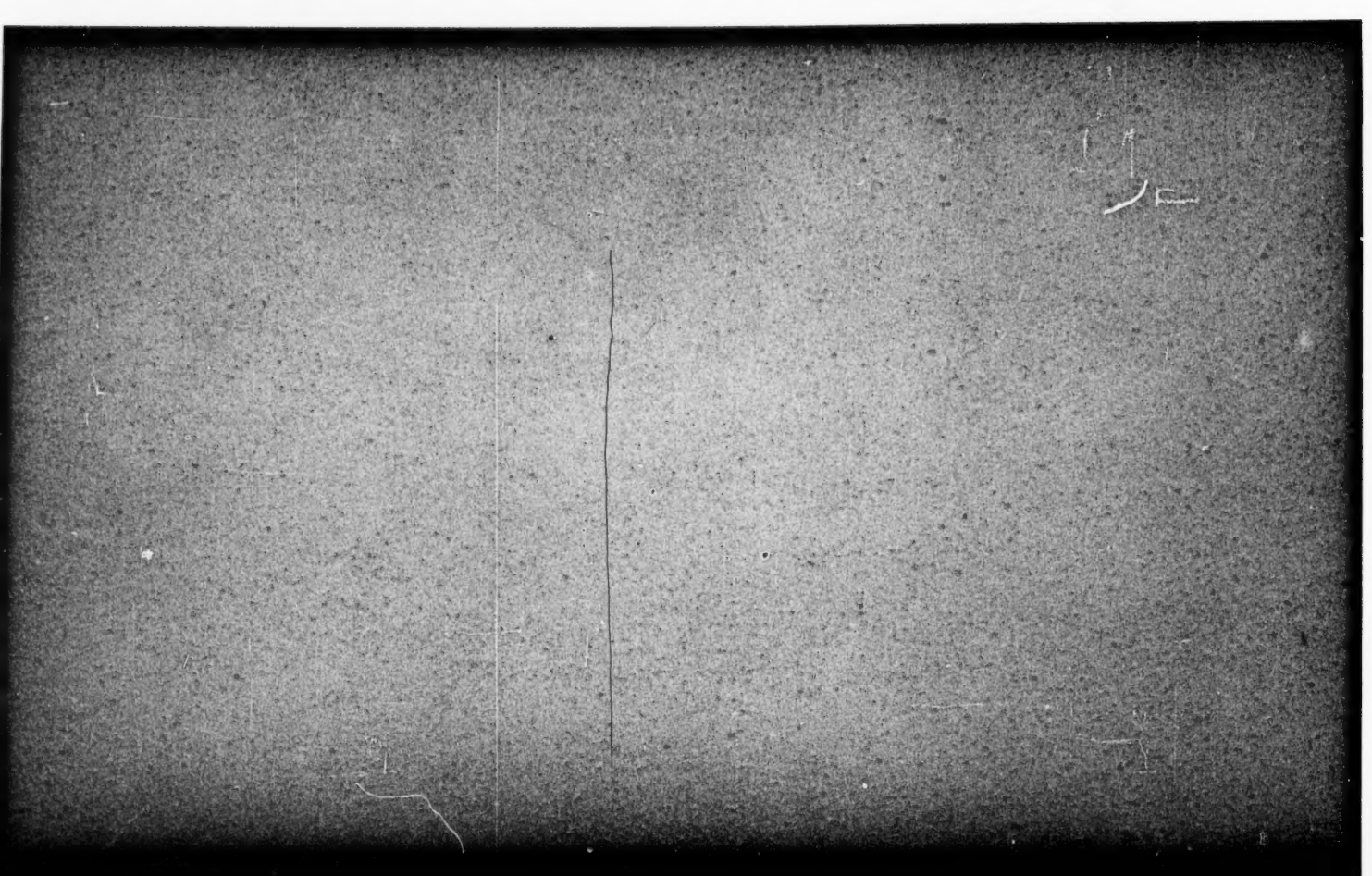

SUPREME COURT, U. S.

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NO. 73-1797

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

MOBLEY M. MILAM, PETITIONER

v.

UNITED STATES OF AMERICA, ET AL.

REPLY TO MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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The Solicitor General in his Opposition Memorandum states that petitioner's contention is without merit because "As this Court held in Julliard v. Greenman, 110 U.S. 421, 448, under the Constitution 'Congress is authorized to establish a national currency, either in coin or in paper, and to make that currency lawful money for all purposes,'....." The problem with the Solicitor's argument is that Congress has specifically seen fit to make U. S. Notes lawful money (31 U.S.C. 452) but has not seen fit to make Federal Reserve Notes lawful money but rather only to make them legal tender to be redeemed in lawful money (12 U.S.C. 411 and 31 U.S.C. 392). Julliard merely concerned the question of legal tender and had nothing to do with the specific question with which we are concerned, to-wit: redemp-

tion, reserves for redemption and lawful money. In fact the Julliard case along with Hepburn v. Griswald (8 Wall 603) and Knox v. Lee, (12 Wall 457) are commonly known and referred to as the legal tender cases (not the lawful money cases).

The Solicitor then goes on to confuse "lawful money" in its generic sense with "lawful money" as used in all our banking statutes throughout history (both State and Federal) to refer to the kind of money which can be used as reserves for deposits and in redemption of bank notes. He defines lawful money merely "as money in circulation by sanction of the laws of the United States"(p. 2 Opp. Memo.). Of course, Federal Reserve Notes are lawful in that sense; however, that merely begs the question which is what is the specific meaning of lawful money as used in the Federal Reserve Act. This question is extensively covered in the original petition at p. 9-14 thereof and there is no need to repeat. Suffice to say that the Solicitor's authorities are not in point to the specific question and 31 U.S.C. 462 (now 392) making all monies legal tender does not apply not only because legal tender is not the question, but also because "currency obligations of and to the United States," (with which we are concerned here) are specifically exempted from its provisions (31 U.S.C. 463(b). This act, the famous Thomas Amendment to the Agricultural Act of May 12, 1933, as amended by Public Resolution No. 10 of June 5, 1933, is the act upon which the government must premise its whole case. Yet by its very terms petitioner's claim is exempted from the provisions thereof!

Furthermore, the Solicitor General conveniently and completely ignors the crucial question of the statutory and contractual obligation of the United States to the petitioner. The note states: "The United States of America will pay to bearer on demand Fifty Dollars" (Emphasis added). Certainly no one can cite any statute or competent authority for the proposition that a Federal Reserve Note is a dollar. Yet the Solicitor's position must stand or fall on that very proposition for the contractual obligation of the United States cannot be abrogated (Perry v. U.S. 294 U.S. 330, 351 (1935); Lynch v. U.S. 292 U.S. 571 (1934).

In fact it is doubtful that Congress could ever make a Federal Reserve Note a dollar. The power to coin money is one thing and the power to borrow money (the power on which the decision in Julliard was based) is another. As Justice Strong said for the majority in the second legal tender case:

> "The legal tender acts do not attempt to make paper a standard of value. We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money, nor do we assert that Congress may make anything which has no value, money." Knox v. Lee, (12 Wall 457, 553).

And Justice Bradley in a separate concurring opinion said that the legal tender act:

> "is not an attempt to coin money out of valueless material, like the coinage of leather or ivory or kowrie shells, it is a pledge of the national credit, it is a promise by the government to pay dollars, it is

not an attempt to make dollars." Knox v. Lee, 12 Wall at 560.

And even if Congress could make dollars out of nothing, certainly the Federal Reserve, a privately owned institution could not, for as Senator Malone said to William McChesney Martin in the hearings of the 1957 Senate Finance Investigating Committee:

> "Now, only is there no authority on the part of Congress to delegate its responsibility under Art 1, Sec. 8, par. 5 of the Constitution, but the Supreme Court in the case of Ling Su Fan vs. United States Government, held their power to be nondelegatable." (See Ling Su Fan vs. U.S., 218 U.S. 302, 54 L. Ed. 1049).

As pointed out in the original petition (p. 16-19 thereof) the issues at stake here are high. These questions should be heard and discussed by this Court. Denial of our right to redeem credit money which bears interest (Federal Reserve Notes) by money which does not (U.S. Notes and Coin) is costing the taxpayers billions of dollars and causing the terrible inflation extant in this country and throughout the world. Even Blackstone years ago recognized the fact that payment of interest by the government causes inflation, for when speaking on the national debt of his day, he said:

> "Our national encumbrances very far exceeds all calculations of commercial benefit, and is productive of the greatest inconveniences, for, first, the enormous taxes, that are raised upon the necessaries of life for the payment of the interest of this Debt are a hurt both to trade and

> manufactures, by raising the price as well of the artificer's subsistence, as of the raw material, and of course in a much greater proportion, the price of the commodity itself....."
> (Emphasis added) 1 Blackstone, Sec. 452.

Modernly, Congressman John R. Rarick has put it even more succintly when he addressed the House of Representatives (in reference to Federal Reserve Notes) as follows:

> "Every debt Dollar demands an interest tribute from our economy for every year that Dollar remains in circulation. These interest costs force up service and contribute greatly to inflation...." Cong. Record, May 11, 1972. (E5191)

Rarick in the same speech pointed out that from 1966 to 1970 the Treasury profited 4 billion dollars in seignorage from minting and paying into circulation coins at a 6 to 1 profit ratio; while during the same four years the Treasury printed 50 billion dollars in Federal Reserve Notes at a 600 to 1 cost ratio and turned them over to the banks without one cent in seignorage (Cong. Record, May 11, 1972).

It is submitted that if we are denied our right to redeem Federal Reserve Notes with interest free money our economic system will soon collapse in massive inflation. As Blackstone points out, interest always causes inflation; it does so because there is no new wealth created or discovered to match the interest charge when debt money is put in circulation. A debt at 6% compounded interest doubles in approximately 12 years, and a thousandfold in a century. Is it any wonder then that we have gone from a practically debt free country in 1913 when the Federal Reserve

came into being to one with a public debt of 400 billion or so at the present time. Unless this Court upholds petitioner's right to redeem, we all will soon drown in a sea of debt and worthless money.

As pointed out in the original petition, serious legal and moral questions not previously ruled upon by this Court are raised and duly brought here for consideration, to-wit:

Are Federal Reserve Notes "dollars"?

Are Federal Reserve Notes to be redeemed in themselves or by money issued directly by the government?

Is our government or a private institution going to control the issuance of "lawful money"?

Are clearly worded statutory obligations of the government to be rendered meaningless?

Are solemn promises made by the government and boldly inscribed on promissory notes which have been circulated to every man, woman, and child in this country who has ever handled money, to become mere wisps in the wind?

These questions are serious and important and in view of the high economic stakes at issue for all Americans, it is respectfully submitted that the Solicitor General's opposition should be disregarded and that the Writ of Certiorari should issue.

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